

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Kimberly Ann Henny,

Case No. 22-cv-2122 (JWB/LIB)

Plaintiff,

v.

REPORT AND RECOMMENDATION

Andre Matevousian, Regional Director,
Bureau of Prisons; Dr. Reyna, Chief of
Psychology, FCI Waseca, Minnesota; T.
Peterson, Health Services Administrator, FCI
Waseca, Minnesota; P.A. Taylor, Physician
Assistant, FCI Waseca, Minnesota; Deann
Hiller, Unit Team Manager, FCI Waseca,
Minnesota; Warden Mistell Starr, Warden
FCI Waseca; Ms. Omelson, Central Office,
BOP, Washington, D.C.; and T. Vaught,
Associate Warden, FCI Waseca,

Defendants.

This matter comes before the undersigned United States Magistrate Judge, pursuant to a general assignment made in accordance with the provision of 28 U.S.C. § 636, upon the routine supervision of the matters that pend before the undersigned.

Plaintiff Kimberly Ann Henny, a federal prisoner, was ordered to pay an initial partial filing fee of \$109.83 at the outset of this proceeding, consistent with 28 U.S.C. § 1915(b). (See Order [Docket No. 3]). Plaintiff later requested that the Court recalculate the amount of this initial partial filing fee. (See Mot. [Docket No. 6]). This Court indicated that it would recalculate the amount of the initial partial filing fee if Plaintiff provided financial information from which that fee could be recalculated; otherwise, the initial partial filing fee of \$109.83 that had already been established through Plaintiff's prison documentation would remain due. (See Order [Docket No. 7]). Plaintiff was given until December 1, 2022, in which to either submit updated financial information or to

pay the required initial partial filing fee, failing which it would be recommended that this matter be dismissed without prejudice for failure to prosecute. See Fed. R. Civ. P. 41(b).

That deadline has now passed, and Plaintiff has neither submitted updated financial information nor paid the previously assessed initial partial filing fee. Accordingly, this Court now recommends, in accordance with its prior Order, that this action be dismissed without prejudice under Rule 41(b) for failure to prosecute. See Henderson v. Renaissance Grand Hotel, 267 F. App'x 496, 497 (8th Cir. 2008) (per curiam) (“A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff’s failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.”).

Based upon the foregoing, and on all of the files, records, and proceedings herein, **IT IS HEREBY RECOMMENDED THAT** this action be **DISMISSED without prejudice** under Federal Rule of Civil Procedure 41(b) for failure to prosecute.

Dated: January 13, 2023

s/Leo I. Brisbois
Hon. Leo I. Brisbois
United States Magistrate Judge

NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. See Local Rule 72.2(b)(2). All objections and responses must comply with the word or line limits set forth in Local Rule 72.2(c).